



**ILD TELESERVICES SUBMISSION**

**TO**

**FEDERAL COMMUNICATIONS COMMISSION**

**Re: Below Rule Making**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of  
Empowering Consumers to Prevent and  
Detect Billing for Unauthorized Charges  
("Cramming")  
Consumer Information and Disclosure  
Truth-in-Billing and Billing Format  
)))))))))

CG Docket No. 11-116

CG Docket No. 09-158

CC Docket No. 98-170

**NOTICE OF PROPOSED RULEMAKING: Adopted: July 12, 2011 Released: July 12, 2011**

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## **OVERVIEW AND BACKGROUND**

ILD Teleservices, Inc. (ILD) is one of the leading billing aggregators in the United States. In business since 1996 (as successor to an existing billing business), ILD ensures that its business customers have validated a services rendered to a consumer. ILD then arranges proper presentation of the billing charges and submits such charges to Local Exchange Carriers (LECs) for billing to the consumer on his or her monthly phone bill. ILD is also currently designated on the phone bill as a point of contact for customer inquiries or complaints. On such basis, ILD submits these comments with absolute agreement with the goals of the FCC rulemaking: no consumer should pay for services not ordered by such consumer. In this submission, ILD provides comments to the FCC rules, and also provides detail that certain of the actions to be imposed by such rules are already industry standard procedures. This submission will also conform to the FCC's request for industry data to questions posed by the FCC in its solicitation of comments. Lastly, this submission will also include general information on the bill to phone industry leading to the verification and complaint resolution procedures currently in place, with the most apt comparison being to the present practices used generally in the "card not present" billing systems utilized by many retailers and service providers.

Bill to phone is a longstanding, viable and needed service to millions of Americans. With 30% of the American consumers not having access to credit cards and over 21 million consumers being "under-banked", it is necessary to find alternative payment methods for goods and services. For some (such as inmates in correctional facilities using third party billing), it may be the only payment mechanism available. For others, it is a direct and efficient payment mechanism which avoids the potentially high fees and interest costs imposed by other forms of payment. For instance, credit card penalty fees cost consumers \$20.5 billion in 2009, and the caps on interchange (or swipe) fees charged to merchants have recently triggered banks to charge consumers more for other payment systems. The type of services using bill to phone is also evolving: merchants seeking the ease of the bill to phone third party billing systems are increasingly for services such as telephony, prevention of identity theft, and broadband and internet services. In essence, consumers continue to find convenient a bill to phone billing option for services.

The billing aggregators and the LECs in the bill to phone industry are very stable with longstanding policies against cramming. Several industry anti-cramming procedures have been enhanced in recent years to put protocols in place to uncover cramming in its very early stages and to cease services for the merchants engaging in such activities. (Please see information on the activities of ILD--the billing aggregator submitting this submission-- as to its procedures and anti-cramming initiatives). Indeed, other forms of payment for digital-based services have been found ripe for malfeasance: Ecommerce merchants lost \$3.3 billion to fraud in 2009 (or about 1.2% of lost revenue) for lack of verification or authorization for services, and the FTC estimates merchants lose 6X as much revenue from the fear of fraud than from actual fraud. In contrast, the bill to phone payment system is one in which potential fraud and cramming are subject to constant monitoring and self-policing by the established LECs and billing aggregators. Furthermore, the billing aggregators, LECs, and others employ several thousand persons with key roles in the general bill to phone industry.

ILD presents below comments to the items expressly solicited for comment by the FCC, as it understand the FCC's desire to lessen the amount of consumer complaints regarding cramming. It is the position of billing aggregator ILD that the best way to combat cramming practices is for industry participants to continue instituting and developing processes by which billing aggregators screen third-party merchants prior to contracting with them for services to include their service fees on consumers' bills. Then, the aggregator should periodically review the billing practices of these third-party vendors, and take steps to terminate third-party vendors for improper billing practices. Billing aggregators have already taken steps to assure that consumer protections against cramming and other improper activities are in place. In addition, the LECs, and increasingly legitimate third-party merchants seeking billing services, have instituted anti-cramming procedures. With these protections in place across the industry, it is ILD's belief that no additional regulatory action is necessary. There is responsibility both to the industry participants to continue the development of safeguards to combat issues of cramming as well as the consumer in remaining diligent while online or making purchases so as not to incur otherwise legitimate third-party vendor charges the consumer is not later willing to in fact pay. In this respect, the bill to pay industry is taking a proactive role similar to that of credit card companies in its anti-fraud initiatives.

If additional regulatory action is forthcoming, then ILD provides its perspective on the proposed FCC rules below, and in fact encourages the FCC to remain the primary regulatory body to play a leading role in such effort.

## **DISCUSSION AS TO FCC RULEMAKING**

The following are comments to inquiries made by the FCC in the Notice of Proposed Rulemaking (CG Docket No. 11-116). For the convenience of discussion, we have grouped the inquiries by the following subject matters: (1) Disclosure Concerns, (2) Blocking Third-Party Charges, and (3) Third-Party Vendors and Billing Aggregators.

1. **Disclosure Concerns.** The FCC solicited comments as to whether there should be a requirement that each wireline telephone bill, as well as the customer service section of each wireline carrier's website, also include a clear and conspicuous statement indicating that consumer inquiries and complaints may be submitted to the FCC, which would include the FCC's telephone number for complaints, website address for filing complaints, and, if located on the provider's website, a direct link to the FCC's webpage for filing complaints.

ILD agrees that consumers should have options when seeking information regarding charges contained on their telephone bills. To this end, ILD believes that the following information should be disclosed on consumers' bills:

- (a) third-party vendor/merchant contact information;
- (b) service provider contact information; and
- (c) billing aggregator contact information.

This will allow the consumer three different means of seeking answers to questions and expressing complaints.

The FCC should not require a direct link to the FCC's webpage be include on all service providers' websites. Having in place the three options for the consumers to direct inquiries and the disclosure of the FCC contact information, the FCC will not be inundated with the day-to-day consumer communications and would only receive complaints where (i) the complaint involves a large dollar amount or (ii) the consumer is unsatisfied with the billing aggregator's handling of their complaint. While the FCC is interested in receiving the more complex consumer communications, complaints, and inquiries, requiring a direct link from the provider's or billing aggregator's website would suggest that the FCC is the first stop for all consumer inquiries and complaints, thereby burying in a mound of consumer communications, the inquiries and complaints about which the FCC is most concerned. With the gamut of consumer communications, the FCC would likely get a false reading of consumer dissatisfaction.

A number of the FCC's solicitations for comments concern the clarity and appearance of required disclosures on consumer telephone bills. Since "clear and conspicuous" disclosure of third-party vendor charges is required by current FCC regulation, ILD does not believe that additional disclosures regulations and requirements will reduce alleged cramming complaints. As already required by the Truth-in-Billing requirements, each telephone service provider is required to inform the consumer that non-provider charges appear in a separate section of the consumer's telephone bill. In addition, the information must be disclosed in a way that "would be apparent to the reasonable consumer." This apparent/obvious delineation of telephone service

provider charges and third-party vendor charges (as is already required) makes sufficiently clear that changes from third parties may appear on a consumer's telephone bill.

As to whether the disclosure should include identification of the specific categories of charges that would be blocked, and how those categories of charges should be described, as well as whether and how the disclosure should advise consumers of the carrier's charge, if any, for the blocking service, ILD points out that there is a material difference in blocking for subscription services (Cat 42) as opposed to collect calls. ILD believes that charging for the blocking is not a good idea, as consumers can then continuously DAK charges and refuse to block due to cost.

2. **Blocking Third-Party Charges.** The Notice of Rulemaking also presented issues and sought comment on the topic of billing for blocking services. Regarding whether providers should charge for blocking services, it is the opinion of ILD that consumers should not be charged for bill blocking. While there are costs attached to providing a blocking service, as the FCC noted in the Notice of Rulemaking, these costs are not debilitating. In addition by charging for blocking services, the consumer may become comfortable with their internet and mobile device use and not be as attentive as possible to avoid incurring third-party vendor charges. The blocking charge may be looked upon as a kind of insurance policy, which it is not. While industry participants play a role in protecting consumers from unauthorized third-party charges, the consumer also plays a role and must remember to remain engaged and attentive to their activities in order to avoid charges they do not wish to incur. While there are not many providers that fail to offer blocking services, all providers should provide blocking services. Consumers should be made aware of the service and offered the opportunity to opt-out of third-party billing at anytime and prevent third-party charges.

As a more general matter concerning blocked third-party charges, it is important that blocked charges be added to the LIDB, so third-party vendors and merchants know what consumers may be billed. Today, the carriers do not provide this information, until after an aggregator attempts to forward a billing charge to a consumer, thus causing confusion to the consumer desires for the service to be included on their telephone bill.

3. **Third-Party Vendors and Billing Aggregators.** Regarding the interaction between (i) LECs or billing aggregators and (ii) third-party vendors, the FCC seeks comments on whether the FCC should require verification of the contact information for third-party vendors contained on consumers' telephone bills and websites is correct. As consumer protection begins with information and the continued accuracy of the same, third-party vendors' information should be verified and updated on a quarterly basis.

Many service providers and billing aggregators, including ILD, have procedures in place that require the pre-screening of any new third-party vendor and a representation from such vendor that the vendor will continue to operate in compliance with all relevant state and federal laws. As this is the case, service providers and billing aggregators are in a position to know what third-party vendors have historically had a high percentage of consumer complaints, in addition to the highest percentage of third-party services most disputed by consumers. The safeguards that ILD currently has in place are outlined in the section "Industry Statistics and Role of ILD as Billing Aggregator."

4. **Conclusion to Comments.** As set forth above, service providers and billing aggregators has proactively worked to protect the consumer by ensuring the charges that appear on a telephone bill are for services the consumer ordered, authorized and consumed. To this end, many LECs and billing aggregators, including ILD, have developed systems that pre-screen potential third-party vendors, regularly verify the accuracy of third-party contact information, and remedy problems with repeat third-vendor billing problems. In addition, industry participants have developed systems to satisfy the current consumer billing requirements to disclose on consumer bills information in a clear and conspicuous manner. For these reasons, while ILD supports continued consumer protection, the industry participants have in place safeguards to prevent against unauthorized third-party billing, and ILD continues to evaluate and improve such safeguards to promote optimum consumer protection.

## **INDUSTRY STATISTICS AND ROLE OF BILLING AGGREGATORS**

### **WHY BILL TO PHONE IS IMPORTANT**

Alternatives to traditional credit card transactions are becoming more and more important for consumers. Consider these facts:

#### **Consumers Need Payment Alternatives for Digital Content.**

- Nearly 30% of American consumers said they didn't own a credit card in a February 2010 survey—a 10% jump from June 2009. (Source: [Scientific poll for CreditCards.com, conducted Feb. 5-7, 2010](#))
- 17 million American adults do not have a bank account, relying instead on check-cashing services. (Source: [The Wall Street Journal – August 18, 2010](#))
- 21 million Americans are considered “underbanked.” These consumers have a checking account but often use payday services and car title loans. (Source: [The Wall Street Journal – August 18, 2010](#))
- According to a Javelin report, only 35% of merchants offer the alternative payment methods that make ecommerce transactions possible for those without credit cards or banking services. (Source [Internet Retailer October 21, 2010](#)).

#### **Credit Cards Cost Consumers.**

- Credit card penalty fees cost consumers \$20.5 billion in 2009. (Source: [New York Times, September 2009](#))
- Proposed caps on interchange (or swipe) fees charged to merchants could trigger banks to make up for lost revenue by charging consumers more. For example, in June Bank of America will start charging some users a penalty interest rate of up to 30% if they make late payments. (Source: [CNN Money, May 9, 2011](#))
- The proposed caps have also spurred banks to consider capping debit card transactions at as little as \$50 or \$100, even if the transaction is run as credit. (Source: [CNN Money, May 9, 2011](#))

#### **Conclusion on Necessity of Bill to Phone Industry:**

The American consumer is purchasing more and more goods and services online. Online purchases require a “non-cash” form of payment. With the explosion of identity theft and credit card fraud the American consumer is looking for a safer alternate way to pay. In addition, there are 30% of the American consumers that do not have credit cards and therefore they depend on alternate payment methods for these purchases.

### **TYPICAL MERCHANT CHARGE VERIFICATION AND PROBLEM RESOLUTION PROCESSES**

Before accepting billing data, ILD conducts due diligence on the potential merchant (a “Merchant” or “Merchant Customer”). The purpose of the due diligence is to confirm that the merchant will not market its services in a deceptive manner and to confirm that the merchant will

obtain the appropriate authorization for all forwarded charges appearing on a consumer's phone bill. The merchant intake, merchant authorization, issue identification, and problem resolution procedures encompass:

- Background Investigations: ILD conducts a background search on the Merchant Customer and usually its primary officers and owners. ILD examines or collects data on the Merchant's product and/ or service, the marketing and sales plan for the product and/ or service, and other pertinent company information. ILD carefully reviews all such materials to ensure compliance with ILD's internal requirements and LEC requirements.
- Verification: Once a Merchant has passed the background investigation and is approved by the LEC for billing, the Merchant Customer must be able to provide an authorization for any charges forwarded to ILD for LEC (and ultimately, consumer) billing. With respect to many such class of customers (including voice authorizations of Internet service providers), such authorization of charges must be forthcoming from an independent third-party verification service and such third-party verification service must be paid based on the number of recordings, and not by whether or not a consumer authorizes a transaction.
- Letter of Authorization: If a consumer signs up for Internet service through the internet site or certain other services, the Merchant is required to obtain authorization from the consumer (termed a Letter of Authorization, or "LOA") in the form of personal information including the telephone number, billing address, and date of birth or social security number, which is then authenticated vis-a-vis the personal information with the Local Exchange Carrier and Lexis-Nexis (a leading verification company) for required matches. The LOA is currently required to be placed on-line for all Merchants first using services this year.
- Methods to Receive Complaints: When a consumer has a question regarding the charges on their telephone bill billed by an aggregator, such consumer may either: (A) call a toll free number that is located on the bill page (termed a "primary inquiry"); the leading aggregators (such as ILD) require that its or the customer's call center be available to the consumer during expanded business hours and have prescribed call completion levels, or (B) assess an online website with easy customer resolution procedures.
- Resolution of Complaints: Often the complaints are resolved without need for further investigation. For others, with a billing telephone number, a billing aggregator such as ILD can promptly investigate a charge and then explain the charges to the consumer. For instance, ILD often credits consumers whose charges were in fact authorized, but are unhappy with those charges, to ensure satisfaction. If the charge was indeed not authorized, the billing aggregator will rectify the situation with the consumer and LEC and take action against the Merchant for billing the unauthorized charge.
- Ongoing Monitoring: A leading billing aggregator such as ILD would perform ongoing audit testing of the Merchant's LEC-approved marketing and sales processes and techniques to ensure unapproved methods are not being employed. The audit tests are completed on a quarterly basis (at a minimum) and include review of marketing process via the internet, telemarketing scripts, and any



written documentation. The audit team purchases the product, uses the product and pulls random recordings of primary inquiry calls if the Merchant Customer provides the primary inquiry.

- Prescribed Compliance Levels: For all Merchants, there are prescribed thresholds as an additional measures against cramming. Generally, if greater than 1% of a Merchant's billed charges are alleged to constitute cramming charges for any month, the customer will receive an "out of compliance letter" and be required to issue an action plan to correct, with follow-up procedures. Please see ILD's procedures for more details on best practices.
- Automatic Probation for New Small Customers: As an additional front-end precaution, ILD imposes a probation period for all billing customers with gross revenues of less than a prescribed amount. During this time, ILD handles all consumer calls and monitors the quantity, level, and type of complaints. If the Merchant exceeds prescribed thresholds or if consumers have excessive complaints about the sales process and charges, then the Merchant submit an action plan to address the problems. If a merchant fails to provide the required plan and fails to address the problems, ILD will take further action as necessary, including termination.

The above are typical verification and anti-cramming processes that ILD has in place. Again, ILD continues to review its processes in order to make sure that they are such that consumers are being protected.

## **ILD AND ITS LEADERSHIP ROLE IN CONSUMER PROTECTION**

ILD takes seriously its responsibility regarding the protection of consumers from unauthorized charges. ILD has stringent policies and procedures to guard against cramming and continually strives to improve them. ILD takes every measure possible to ensure it is working with Merchants that do not engage in this practice, including background searches, review of Merchant's customer acquisition methods, and adherence to strict authorization verification procedures. ILD remains vigilant in mitigating unauthorized transactions, continually refining its processes to avert deceptive marketing or fraudulent activity. As a result of stringent business practices and systematic authentication tools, ILD has terminated billing agreements with Merchants found in violation of our policies.

As a direct response to consumer needs, ILD has greatly enhanced its infrastructure and operating platforms. It recently expanded its consumer protection processes by implementing strict sales authentication processes for its Merchant Customers. ILD has developed an automated process to authenticate every internet sale by a Merchant, prior to allowing charges to be submitted to a consumer. This system requires the first name, last name, address, phone and personal data to be an exact match to the consumer information on record. Sales by phone require an independent third party to verify the sale and ensure the consumer understands the purchase prior to allowing the charge.

ILD operates a state of the art call center for resolution of any billing inquiry. It is staffed with bilingual, trained operators dedicated to one call resolution. ILD monitors and trains its staff continuously through an extensive quality assurance program to ensure the best and most

complete response to all inbound inquiries. It is open during business hours in all of the markets to which ILD Teleservices provides services.

Another example of ILD's focus on consumer protection is its development of the industries' first Self Help Center on ILD Teleservices' website, which is available to consumers billed by ILD Merchant Customers. In an age where so much business is conducted on-line, ILD sought to offer additional consumer complaint services over and above a traditional call center. In response, ILD developed a site that enables consumers to manage their own inquiry process, initiate and potentially settle disputes on-line 7 days a week, 24 hours a day. This site was developed in 2008 and launched in early 2009.

In conclusion, bill-to-phone is a longstanding and needed service to millions of Americans. The industry employs several thousand persons in a challenged employment environment. The FCC rulemaking is tailored and well-thought out, but ILD invites the FCC to fully consider the burdens to industry participants, in addition to the benefits to consumers, in light of the current self-implemented measures instituted by industry participant to promote consumer protection.